

REMARKS

Claims 1-9 are pending in the original application. In the above amendments, claims 6 and 7 have been amended.

Claims 1-9 stand rejected under 35 U.S.C. §102(e) as being anticipated by Soliman (U.S. Pub. 2002/0114288), hereinafter referred to as Soliman. In the current Amendment, Applicants respectfully traverse the rejections after giving a due consideration to the arguments for rejection presented in the Office Action.

Claim Rejections under 35 U.S.C. § 102(e)

Claims 1-9 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Soliman.

In regards to claims 1-9, the Office Action contends that Soliman teaches each and every element of Applicants' claimed invention. Applicants respectfully disagree and provide the following explanation of why Soliman neither teaches nor recites the elements of the claimed invention.

Applicants' claim 1 reads:

1. In a wireless communication system, a method for call recovery comprising:
transmitting a pilot strength measurement message at a first transmit power level;
waiting a predetermined time period; and
transmitting the pilot strength measurement message at a second transmit power level,
wherein the second transmit power level is greater than the first transmit power level.

Examiner cites element 130 in FIG 2 of Soliman as disclosing a method of call recovery. However, this element 130 is simply labeled "Call Delivery Failure Due to Forward Link Failure." This element is the means to detect a failure in the forward link as described in Soliman paragraph [0030] and in various other parts of the specification of Soliman.

The Examiner states that Soliman teaches the first element of Applicants' claim 1 in paragraph [0041], paragraph [0063], and FIG. 3. The first element in claim 1 involves transmitting "**a pilot strength measurement message.**" However, Soliman paragraph [0041] teaches transmitting an **access probe** at a specified power level, and subsequent access probes at specified higher power levels. Clearly these two transmissions have drastically different functionality, the first being a means to convey a measurement of the pilot strength received at the mobile station to the base station, while the latter being used to initiate a call, among other uses. Further, Soliman paragraph [0063] teaches the pilot strength measurement itself and its use for determining the cause of a link failure. However, this paragraph does not mention the transmission of "a pilot strength measurement message." Finally, Soliman FIG. 3 neither teaches nor recites the transmission of a pilot strength measurement message. Rather, it describes a method for detecting a link imbalance upon failure of the forward link and subsequent action. Again, the mention of the "pilot" in Soliman FIG 3 refers to the measurement of a pilot, not to the transmission of a pilot strength measurement message.

As explained in the arguments above, Soliman fails to teach each and every element of Applicants' claim and therefore the 35 U.S.C. §102(e) rejection on this basis is not valid. Further, the above arguments apply to claim 4 as the Examiner has used the same citations in his rejection of this claim. Applicants' maintain that claim 1 and 4 are allowable and request that Examiner withdraw his rejections.

In his rejection of Applicants' claim 2, Examiner cites Soliman FIG. 2 element 138 "Another strong pilot?" as teaching "a second transmitting maximum power level." Applicants disagree with this assertion because clearly element 138 is a test to determine whether there is another strong pilot signal based on a measurement and is not a maximum power level for the transmission of a pilot strength measurement message. This is amply described in Soliman paragraph [0066]. Therefore, Applicants request withdrawal of the rejection for this claim.

Claims 3 and 9 are rejected on the grounds that Soliman discloses a computer program stored on a computer readable medium in paragraph [0074] and FIG. 4. While it is true that Soliman paragraph [0074] does teach "the present invention preferably executes on a microprocessor or other data processing device in the wireless unit", the arguments given above in reference to claims 1, 2, and 4 clearly demonstrate that the Applicants' claimed invention is

distinct from the “present invention” in Soliman. Once again, Applicants request withdrawal of the rejections for these claims.

Regarding claim 5, the Examiner cites Soliman FIG. 3 and specifically elements labeled 164, 166, and 174 as teaching the element in Applicants’ claim 5 of “transmitting a pilot strength measurement message at each transmit power level.” However, as in the argument above against the use of FIG. 2, these elements in FIG. 3 teach the comparison of the pilot to a threshold, determining whether there is another strong pilot signal, and performing an idle handoff. This is described in Soliman paragraph [0071] and distinct from the claimed subject matter of Applicants’ claim 5. Claim 5 is allowable and Applicants request withdrawal of the rejection for this claim.

Claims 6 and 7 are dependent on claim 5, which is an allowable claim based on the arguments of the last paragraph, and include all elements and limitations of claim 5. Therefore, these claims are allowable and Applicants’ request withdrawal of the rejections.

Regarding Applicants’ claim 8, the Examiner states that Soliman discloses all limitations as in the rejections given for claims 1 and 3. However, the arguments given above against the rejections for claims 1 and 3 demonstrate that Soliman does not teach or recite the limitations of claims 1 and 3, and thereby does not teach the limitations of claim 8. Therefore claim 8 is allowable.

Consequently, Soliman fails to anticipate claims 1-9 in the present Application, and the Examiner is respectfully requested to withdraw the rejections of all claims 1-9.

Amended Claims

Applicants amend dependent claims 6 and 7 so that they depend on claim 5 instead of claim 4. The dependence on claim 4 is clearly a typographical error as “pilot strength measurement messages” in claims 6 and 7 only have antecedent basis in claim 5, and not in claim 4. This amendment has ample support in the specification as originally filed and therefore does not constitute new matter.

Applicants respectfully assert that all claims are allowable over the cited art. Applicants request withdrawal of the rejections and objections of the present Application for Patent.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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By:  53,441

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